

MISCELLANEOUS PROVISIONS

§ 928.61 Compliance.

Except as provided in this part, no person shall handle papayas, the shipment of which has been prohibited by the Secretary in accordance with the provisions of this part; and no person shall handle papayas except in conformity with the provisions and the regulations issued under this part.

§ 928.62 Right of the Secretary.

The members of the committee (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§ 928.63 Effective time.

The provisions of this part and of any amendments thereto shall become effective at such time as the Secretary may declare above his signature, and shall continue in force until terminated in one of the ways specified in § 928.64.

§ 928.64 Termination.

(a) The Secretary may at any time terminate the provisions of this order by giving at least one day's notice by means of a press release or in any other manner which the Secretary may determine.

(b) The Secretary shall terminate or suspend the operation of any and all of the provisions of this order whenever the Secretary finds that such provisions do not tend to effectuate the declared policy of the Act.

(c) The Secretary shall terminate the provisions of this order at the end of any fiscal year whenever the Secretary finds by a referendum or otherwise that continuance is not favored by the majority of producers who, during a representative period determined by

the Secretary, were engaged in the production area in the production of papayas for market: *Provided*, That such majority has produced for market during such period more than 50 percent of the volume of papayas produced in the production area. Such termination shall be effective only if announced on or before December 15 of the then current fiscal year.

(d) Upon recommendation of the committee, received not later than October 1 of an even-numbered year, the Secretary shall conduct a referendum prior to December 1 of such year to ascertain whether continuance of this order is favored by the producers.

(e) The Secretary shall conduct a continuance referendum every sixth fiscal year prior to October 1, with the first such referendum to be conducted within six years from the effective date of this amendment of this section, to ascertain whether continuance of this order is favored by producers. The Secretary may terminate the provisions of this order at the end of any fiscal year in which the Secretary has found that continuance of this order is not favored by producers, who, during a representative period determined by the Secretary, have been engaged in the production for market of papayas in the production area. Such termination of the order shall be effective only if announced on or before December 15 of the then current fiscal year.

(f) The provisions of this order shall, in any event, terminate whenever the provisions of the Act authorizing them cease to be in effect.

[53 FR 865, Jan. 14, 1988]

§ 928.65 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustees of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of

Agricultural Marketing Service, USDA

§ 928.111

the committee and of the trustees, to such persons as the Secretary may direct; and (3) upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person, full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the committee and upon the trustees.

§ 928.66 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provisions of this part or any regulation issued under this part, or (b) release or extinguish any violation of this part, or of any regulation issued under this part, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any violation.

§ 928.67 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon the termination of this part, except with respect to acts done under and during the existence of this part.

§ 928.68 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the U.S. Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

§ 928.69 Derogation.

Nothing contained in the provisions of this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any pow-

ers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 928.70 Personal liability.

No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

§ 928.71 Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 928.106 Fiscal year.

Pursuant to § 928.6, the term *fiscal year* is redefined to mean the 12-month period beginning on July 1 of each year and ending on June 30 of the following year: *Provided*, That an interim fiscal period is established for the period October 1, 1986, through June 30, 1987.

[51 FR 35342, Oct. 2, 1986]

§ 928.111 District redefinition.

District means the applicable one of the following described subdivisions of the production area:

(a) District 1 shall include the island of Hawaii.

(b) District 2 shall include the county of Kauai which consists of the islands of Kauai and Niihau; the county of Maui which consists of the islands of Maui, Molokai, Lanai, and Kahoolawe; and Kalawao County.

(c) District 3 shall include the county of Honolulu which includes all of the island of Oahu.

[49 FR 44200, Nov. 5, 1984 and 50 FR 1439, Jan. 11, 1985]